

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-13

Jones v. Polk
(Fox)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

04-1480

National Railroad v. Catalina Enterprises
(Grimm)

EMINENT DOMAIN. Whether district court erred in denying jury trial and referring land condemnation compensation issue to a Land Commission; other issues.

04-1391

Bi-Tech North Inc v. Lockheed Martin Corp
(Williams)

CONTRACTS. Challenge to summary judgment in action arising out of contract for sale of machine shop.

04-1586

Congelton, L.L.C. v. Phillips
(Faber)

BANKRUPTCY. Whether bankruptcy court improperly refused to stay adversary proceeding in favor of arbitration or improperly proceeded to determine merits of controversy.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

TUESDAY, NOVEMBER 30, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

02-4653

US v. Robert Washington
(Mozt)

SENTENCING GUIDELINES. Whether defendant committed subornation of perjury by calling a witness to testify on his behalf, knowing the witness would testify falsely but without discussing the false testimony with the witness. 15 mins. per side

03-4957

US v. Terrence O. Smith
(Lee)

FOURTH AMENDMENT. Whether seizure of defendant on the publicly accessible road leading to CIA headquarters was constitutional; other issues.

04-1003

Moore v. City of Asheville NC
(Thornburg)

ABSTENTION. Whether district court erred in staying challenge to city noise ordinance under Younger v. Harris where there are no ongoing state proceedings.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

TUESDAY, NOVEMBER 30, 2004

REVD 11/30/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1342

Pettyjohn v. Estes Express Line
(Eliason)

CIVIL PROCEDURE. Whether complaint was amended when claim was initially raised in response to motion.

04-1137

Richard Lundgren Inc v. American Honda
(Motz)

SETTLEMENT. Whether auto manufacturer's establishment of a new dealership in same area with existing dealerships was retaliatory and in violation of national settlement agreement.

03-2119

Butler v. Rector Bd Visitor WM
(Bradberry)

DUE PROCESS. Whether student's dismissal from graduate program violated her constitutional rights; other issues.

04-1371

Pension Benefit v. Don's Trucking
(Spencer)

ERISA. Whether PBGC's Title IV employer liability action is barred by res judicata or doctrine of election remedies.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

TUESDAY, NOVEMBER 30, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-6130

US v. Idema

RESTITUTION. Whether the Federal Debt Collection Procedures Act can be used to collect restitution under a criminal judgment entered prior to the Mandatory Victim Restitution Act.

04-1205

Chesapeake Ranch v. Board of Comm Calver
(Williams)

CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT. Whether county's proposed extension of water service to properties adjacent to water service provider's facilities violates the Act.

03-2527

Curumi v. Ashcroft

IMMIGRATION. Whether the Board erred in finding that Curumi failed to establish his eligibility for asylum, withholding of removal, or protection under the Convention Against Torture.

04-6607

Washington v. Jarvis
(Lee)

HABEAS CORPUS. Challenge to the grant of habeas relief based on double jeopardy grounds.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

TUESDAY, NOVEMBER 30, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

03-7328
Afeta v. Ashcroft
(Bennett)

04-1030
Frank Krasner Enter v. Montgomery County MD
(Garbis)

04-16
Walker v. True
(Hilton)

NATURE OF CASE

IMMIGRATION. Whether the district court properly denied appellant's petition for writ of habeas corpus based upon the Supreme Court's decision in Demore v. Kim, 123 S. Ct. 1708 (2003) .

JURISDICTION. Whether gun show promoter and exhibitor have standing to challenge county gun show law; other issues.

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 1, 2004

REVD 11/19/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1848

Discover Bank v. Vaden

JURISDICTION/ARBITRATION. Whether the district court had subject matter jurisdiction and whether it erred in compelling arbitration.

03-2448

Simmons v. Jelniker
(Messitte)

TORTS. Challenge to summary judgment in action alleging violation of Fire Code, Landlord-Tenant Code, and state Consumer Protection Act in the installation of smoke detectors.

04-1378

National Fed Blind v. Federal Trade
(Motz)

ADMINISTRATIVE AGENCY. Challenge to the FTC regulations applicable to telephone solicitation of charitable contributions.

04-1344

Hotel Roanoke Conf v. Cincinnati Ins Co
(Wilson)

INSURANCE. Whether building damage to foundation and floors due to hydration of steel slag used as fill is covered by either commercial general liability policy or associated umbrella policy.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 1, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-19

Walton v. Johnson
(Wilson)

HABEAS CORPUS. Numerous issues arising out of state capital murder conviction and sentencing.

03-2505

Sanders v. Mueller
(Garbis)

CONTRACTS. Whether attorney fee sharing agreements were unenforceable; unjust enrichment/quantum meruit; remittitur.

03-2518

Jones v. Grimes
(Boyle)

CIVIL. Whether the district court properly found the sheriff and assistant district attorney immune from suit in Jones's claim his car was taken without due process; other issues.

04-1818

Washington v. Wilmore
(Moon)

CIVIL RIGHTS. Whether claims are barred by Rooker-Feldman doctrine; qualified immunity.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 1, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1502

CIT Communications v. Midway Airlines
(Boyle)

BANKRUPTCY. Whether debtor was improperly relieved of making post-petition payments under an unexpired lease.

03-4966

US v. Warren Collins
(Faber)

SUFFICIENCY OF THE EVIDENCE. Whether the evidence was sufficient to support the conviction; other issues.

04-1687

D'Addario v. Geller
(Smith)

SECURITIES. Challenge to summary judgment on breach of fiduciary duties and RICO claims; discovery issues; denial of class certification.

04-6473

Byrd v. Moore
(Mullen)

ATTORNEY FEES. Challenge to award of fees under EAJA for successful habeas petition.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

WEDNESDAY, DECEMBER 1, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

99-4566 (L), 99-4665 99-4666 99-4667
US v. Michael J. Bartram
(Haden)

SENTENCING. Whether the district court erred in sentencing the appellants based on its determinations regarding relevant conduct.

04-1395 (L), 04-1729
MCI Constructors Inc v. Greensboro
(Osteen)

CONTRACTS. Challenge to referee's decision; whether suit against surety is time-barred.

04-1075 (L), 04-1181
Smith v. McCulskey
(Houck)

CIVIL RIGHTS. Challenge to denial of qualified immunity to police officer in action arising out of arrest for disorderly conduct.

04-1257
Ganey v. PEC Solutions Inc
(Lee)

SECURITIES. Challenge to dismissal of class action alleging securities fraud in the making of false and misleading statements as to company's financial condition.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
9:30 a.m.

THURSDAY, DECEMBER 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1338

VA Intl Terminals v. Edwards

ADMINISTRATIVE AGENCY. Whether claimant has a right to attorney fees where employer paid compensation without an award and only issue was an additional period of temporary total disability.

04-1055

Halle Development v. Anne Arundel Cnty
(Nickerson)

CIVIL. Whether claim for development impact fee credits is barred by statute of limitations or res judicata.

04-6500

Frazer v. State of SC
(Duffy)

HABEAS CORPUS. Whether trial counsel was ineffective for failing to consult defendant about appealing guilty plea.

04-1405 (L), 04-1411

Adventis Inc v. Consolidated Propert
(Turk)

TRADEMARK. Challenge to district court's determination that neither party's use of disputed trademarks infringed on the rights of the other.

PANEL II
COURTROOM TWO
Courthouse Room 233 (Green Carpet)
9:30 a.m.

THURSDAY, DECEMBER 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1643

Bogdan v. JKV Real Estate Svc
(Davis)

BANKRUPTCY. Whether Chapter 7 Trustee has standing to assert the claims of third party creditors or assert fraud claims against third parties with whom debtor was engaged in wrongdoing.

04-1646

Devan v. Phoenix Amer Life
(Motz)

BANKRUPTCY. Whether post-petition interest payments on policy loans were unauthorized avoidable post-petition transfers; other issues.

04-1616

Kaiser Foundation v. ADT Security Systems
(Titus)

CIVIL. Whether loss of statute of limitations defense constitutes sufficient prejudice to a defendant to warrant denial of motion for voluntary dismissal.

04-1652

Talton v. I H Caffey Distrib
(Osteen)

FAIR LABOR STANDARDS ACT. Whether plaintiff's overtime claims are exempted under the Motor Carrier Act.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
9:30 a.m.

THURSDAY, DECEMBER 2, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

04-1408
Godwin v. Farmers New Century
(Williams)

NATURE OF CASE

INSURANCE. Whether family automobile insurance policy
covered non-resident unemanipated minor child.

04-1277
James v. Pratt and Whitney
(Norton)

CIVIL. Whether civil conspiracy claim should have survived
motion to dismiss under federal notice pleading rules;
other issues.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
9:30 a.m.

THURSDAY, DECEMBER 2, 2004

REVD 11/24/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1535

Thompson v. HUD
(Garbis)

ADMINISTRATIVE AGENCY. Whether district court erred in extending continuing jurisdiction over HUD pursuant to consent decree.

04-1439

Turmon v. Jordan
(Seymour)

CIVIL RIGHTS. Challenge to denial of qualified immunity to police officer for briefly detaining suspect to investigate suspicious conduct.

04-1271 (L), 04-1472

Saxon Fibers, LLC v. Wood
(Seymour)

JURISDICTION. Whether the original complaint contained defective jurisdictional facts.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
9:30 a.m.

THURSDAY, DECEMBER 2, 2004

REVD 12/1/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

04-4353
US v. Everett Oshae Brown
(Jackson)

NATURE OF CASE

SEARCH & SEIZURE. Challenge to suppression of firearm and
statements made at the time of arrest.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
2:30 p.m.

THURSDAY, DECEMBER 2, 2004

REVD 11/8/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

04-1336 (L), 04-1403 04-1722
Mid Atlantic Medical v. Sereboff
(Davis)

NATURE OF CASE

ERISA. Whether plaintiff sought impermissible contractual
legal relief or appropriate equitable relief; whether
defendants are entitled to common fund-type attorney's fee
reduction.

PANEL II
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
** 2:30 p.m. **

THURSDAY, DECEMBER 2, 2004

REVD 11/30/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1191

Mercer v. Duke University
(Beaty)

ATTORNEY'S FEES. Challenge to award of fees to prevailing party under 28 U.S.C. Section 1988.

04-4112

US v. Laura Lynn Groce
(Thornburg)

CRIMINAL LAW & PROCEDURE. Sufficiency of evidence; sentencing issues.

04-4320

US v. Donald Ray Goodine
(Bullock)

CRIMINAL. Whether double jeopardy or federal criminal collateral estoppel bars re-trying defendant.

04-4250

US v. Joe Anthony Brown
(Voorhees)

CRIMINAL LAW & PROCEDURE. Sufficiency of the evidence; application of murder cross-reference in USSG Section 2D1.1(d)(1); other issues.

PANEL I
COURTROOM ONE
Courthouse Room 412 (Red Carpet)
8:30 a.m.

FRIDAY, DECEMBER 3, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1168

Huff v. Barnhart
(Conrad)

SOCIAL SECURITY. Administrative res judicata; constructive
reopening; propriety of dismissal.
15 mins. per side

04-4311

US v. Dennis Deon Smith
(Tilley)

CRIMINAL LAW & PROCEDURE. Did police have reasonable
suspicion to justify a traffic stop pursuant to Terry v.
Ohio, 392 U.S. 1 (1968).

04-4227

US v. Lee Stevenson
(Keeley)

CRIMINAL LAW & PROCEDURE. Propriety of search of apartment
under Fourth Amendment.

PANEL II

COURTROOM TWO

Courthouse Room 233 (Green Carpet)

** 8:15 a.m. **

FRIDAY, DECEMBER 3, 2004

REVD 11/30/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1469 (L), 04-1471
Chaplin v. Du Pont Advance
(Hudson)

ATTORNEY'S FEES. Challenge to award of attorney's fees and
sanctions for violation of Rule 11.

04-4260
US v. Curtis D. Woolfolk
(Moon)

SPEEDY TRIAL. Whether state detention on federal detainer
factors into speedy trial calculations when defendant had
no active sentence to serve; other issues.

04-4230
US v. Herbert G. Evans Jr.
(Jones)

CRIMINAL LAW & PROCEDURE. Whether district court erred in
authorizing involuntary medication for the purpose of
rendering defendant competent to stand trial.

04-6531
Trowell v. Beeler
(Boyle)

HABEAS CORPUS. Whether the Bureau of Prisons was required
to designate state facility to serve federal sentence in
light of state court order.

PANEL III
COURTROOM THREE
Courthouse Room 225 (Tan Carpet)
** 8:30 a.m. **

FRIDAY, DECEMBER 3, 2004

REVD 12/2/04

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE

NATURE OF CASE

04-1476

Gayle v. UPS
(Currie)

ERISA. Whether failure to file timely appeal of denial of administrative remedy at first level warrants dismissal of legal action with prejudice; equitable tolling in ERISA context; other issues.

04-1022

Webster v. Johnson
(Cacheris)

TITLE VII: Whether summary judgment was properly granted and administrative EEO complaint timely filed.

04-1520

Pham v. Hartford Fire Insur
(Lee)

INSURANCE. Whether employee was covered by his employer's insurance at the time of auto accident.

03-4490

US v. Kenneth Grossman
(Blake)

CRIMINAL LAW & PROCEDURE. Whether probable cause supported search warrants for three residences; other issues.

PANEL IV
COURTROOM FOUR
Courthouse Room 414-D (Tweed Carpet)
8:30 a.m.

FRIDAY, DECEMBER 3, 2004

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT
Richmond, Virginia
(11/30/2004 - 12/03/2004 Session)

NUMBER AND STYLE
04-2168
US v. Under Seal
(Harwell)

NATURE OF CASE

GRAND JURY. Appeal in grand jury matter.

02-4899
US v. Andrew Shank
(Nickerson)

CRIMINAL LAW & PROCEDURE. Whether defendant who waived appellate rights in a plea agreement may appeal district court's refusal to recuse itself pursuant to 28 U.S.C. Section 455(b) (4) (2000).

03-4837
US v. Wynn Robert Walker
(Bullock)

CRIMINAL LAW & PROCEDURE. Whether a defendant's prior convictions may be considered when determining "grade" under USSG Section 7B1.1.

03-4956
US v. Larry J. Pierce, II
(Williams)

CRIMINAL LAW & PROCEDURE. In prosecution for mail fraud, whether mailing was material to consummation of fraudulent scheme.

PANEL V
COURTROOM FIVE
Courthouse Annex Room 229
8:30 a.m.

FRIDAY, DECEMBER 3, 2004